

of liability under a bond given in less than the maximum amount has been reached, further drawback on monthly claims may be suspended until a strengthening or superseding bond in a sufficient amount has been furnished. For provisions relating to bonding requirements, subpart E of part 17 of this chapter is incorporated in this part, but references therein to a regional director (compliance) shall apply, for purposes of this part, to the Chief, Puerto Rico Operations.

(b) *Approval required.* No person bringing eligible articles into the United States from Puerto Rico may file monthly claims for drawback under the provisions of this subpart until bond on Form 5154.3 has been approved by the Chief, Puerto Rico Operations. Bonds approved by a regional director (compliance) prior to the effective date of this provision shall remain in effect.

[T.D. ATF-379, 61 FR 31427, June 20, 1996]

§ 250.173 Claims for drawback.

(a) *General.* Persons bringing eligible articles into the United States from Puerto Rico shall file claim for drawback on Form 2635 (5620.8) with the Chief, Puerto Rico Operations. Upon finding that the claimant has satisfied the requirements of this subpart, the regional director (compliance) shall allow the drawback of taxes at a rate of \$1 less than the lesser of \$10.50 a proof gallon or the rate specified in 26 U.S.C. 5001(a).

(b) *Information on claims.* The claim must set forth the following:

- (1) That the special tax has been paid;
- (2) That the eligible articles brought into the United States on which drawback is claimed are fully tax paid or tax-determined;
- (3) That the eligible articles on which drawback is claimed are nonbeverage products; and
- (4) That the eligible articles were manufactured in Puerto Rico in compliance with an approved formula in accordance with § 250.51.

(c) *Supporting data.* Each claim shall be accompanied by supporting data as specified in this paragraph. ATF Form 5154.2, Supporting Data for Nonbeverage Drawback Claims, may be used,

or the claimant may use any suitable format that provides the following information:

(1) The control number of the Special Tax Stamp and the tax year for which issued;

(2) A description of each eligible article as follows:

- (i) Name and type of each product;
- (ii) Name and address of the manufacturer of each product;
- (iii) Formula number;
- (iv) Alcohol content of each product;
- (v) Quantity of each product;
- (vi) Proof gallons of distilled spirits contained in each product;
- (vii) Date of entry of the eligible product into the United States, and
- (viii) The serial number of each ATF Form 487-B (5170.7) covering such articles shipped to the United States.

(d) *Date of filing claim.* Quarterly claims for drawback shall be filed with the Chief, Puerto Rico Operations, within the 6 months next succeeding the quarter in which the eligible products covered by the claim were brought into the United States. Monthly claims for drawback may be filed at any time after the end of the month in which the eligible products covered by the claim were brought into the United States, but must be filed not later than the close of the sixth month succeeding the quarter in which the eligible products were brought into the United States.

(Approved by the Office of Management and Budget under control number 1512-0494)

[T.D. ATF-263, 52 FR 46594, Dec. 9, 1987, as amended by T.D. ATF-271, 53 FR 17559, May 17, 1988; T.D. ATF-379, 61 FR 31427, June 20, 1996]

§ 250.174 Records.

(a) *General.* Every person intending to file claim for drawback on eligible articles brought into the United States from Puerto Rico shall keep permanent records of the data elements required by this section. Such records shall be maintained at the business premises for which the claim is filed and shall be available for inspection by any ATF officer during business hours.

(b) *Details of records.* Each person intending to claim drawback on eligible articles brought into the United States shall maintain permanent records showing the following data:

(1) The name, description, quantity, and formula number of each such article.

(2) The alcohol content of each such article.

(3) Name and address of the manufacturer and shipper, and date of entry into the United States.

(4) Evidence of taxpayment of distilled spirits in accordance with paragraph (c) of this section.

(c) *Evidence of taxpayment of distilled spirits.* All shipments of eligible articles from Puerto Rico to the United States shall be supported by the vendor's commercial invoice which must bear a certification as to taxpayment by the person who determined or paid the tax, and include the following information:

(1) The name and address of vendor;

(2) The number of the applicable invoice;

(3) The serial or package identification number of the container;

(4) Name, type, and formula number of the product;

(5) The kind of spirits, proof, and proof gallons in the container; and

(6) The serial number of each Form 487-B (5170.7) covering such articles shipped to the United States.

(d) *Form of record.* No particular form of record is prescribed, but the data required to be shown shall be readily ascertainable from the records kept by the drawback claimant.

(e) *Retention of records.* Each drawback claimant shall retain for a period of not less than three years all records required by this subpart, all commercial invoices or shipping documents, and all bills of lading received evidencing receipt and tax determination of the spirits. In addition, a copy of each approved formula returned to the manufacturer of eligible articles shall be retained for not less than three years from the date he files his last claim for drawback under the formula. The records, forms, and formulas shall be readily available during regular business hours for examination by ATF officers.

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Subpart Ia—Shipment of Denatured Spirits and Products Made With Denatured Spirits to the United States From Puerto Rico

SOURCE: T.D. ATF-199, 50 FR 9198, Mar. 1, 1985, unless otherwise noted.

§ 250.191 Notice of shipment.

At least 5 business days before shipment, each proprietor of a distilled spirits plant in Puerto Rico who intends to ship denatured spirits to the United States in containers larger than 5 gallons, and each person in Puerto Rico who intends to ship products made with denatured spirits to the United States in containers larger than 5 gallons shall notify the chemist of the Treasury of Puerto Rico of the intent to ship.

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[T.D. ATF-199, 50 FR 9198, Mar. 1, 1985, T.D. ATF-199, 50 FR 20099, May 14, 1985]

§ 250.192 Samples and analysis.

The chemist of the Treasury of Puerto Rico may take samples of the product to be shipped in order to determine that it is eligible for tax-free status.

§ 250.193 Notification of tax liability.

(a) If the chemist of the Treasury of Puerto Rico finds that denatured spirits or products made with denatured spirits are not eligible for tax-free shipment, before the shipment is made, the chemist will immediately notify the shipper that the article is subject to tax, payable in accordance with §§ 250.107 through 250.110.

(b) If the chemist of the Treasury of Puerto Rico finds that denatured spirits or products made with denatured spirits are not eligible for tax-free shipment, after the shipment is made, the chemist will immediately notify the shipper that the tax shall be paid immediately in accordance with § 250.113. The chemist will also notify the regional director (compliance) of the consignee's region.